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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/542,205	04/04/2000	Roy P DeMott	2172	5646

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EXAMINER
JUSKA, CHERYL ANN

ART UNIT	PAPER NUMBER
1771	9

DATE MAILED: 12/19/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

MF-4

Office Action Summary

Application No.	Applicant(s)
09/542,205	D Mott et al.
Examiner	**Art Unit**
Cheryl Juska	1771

-- The MAILING DATE of this c mmunication appears on the c ver sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on _____ .

2a) ☐ This action is **FINAL.** 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-6* is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-6* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☒ Notice of References Cited (PTO-892)
16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
18) ☐ Interview Summary (PTO-413) Paper No(s). _____
19) ☐ Notice of Informal Patent Application (PTO-152)
20) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear what is meant by the term "side wall" in claim 4.

Claim Rejections - 35 USC § 102 and/or 103

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 3 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by, or in the alternative, under 35 U.S.C. 103(a) as being unpatentable over EP 784 114 issued to Huth et al.

Huth discloses an emery apparatus comprising a bristles coated with an abrasive material for abrasively treating a pile fabric (title and abstract). Although the Huth abstract does not explicitly teach that the pile fibers have disturbances around the circumference of said fiber or that fibrils extend from the side and end of said fiber, it is reasonable to presume that the invention of Huth would inherently produce a pile fabric such as is presently claimed. Support for said presumption is found in the use of like materials (i.e., pile fabrics, abrasive surface) and like processes (i.e., abrading said pile fabric with said abrasive surface). The burden is upon Applicant to prove otherwise. In *re Fitzgerald*, 205 USPQ 495. In the alternative, the claimed disturbances and fibrils would have obviously been provided as a result of treating a pile fabric with Huth's apparatus. Note *In re Best*, 195 USPQ 433. Therefore, claims 3 and 4 are rejected.

6. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 784 114 issued to Huth et al.

As discussed above, the Huth abstract does not explicitly teach that the pile fibers have surface abrasions thereon. However, it is argued that said surface abrasions are inherent to a pile fabric treated with Huth's abrasive apparatus.

Thus, it can be seen that the Huth disclosure teaches the limitations of claims 1 and 2 with the exception that the surface abrasions are disposed about 2-90%, or preferably 5-50% of the length of the pile fiber. It is argued that these claimed amount of surface abrasions would have

been obvious over the cited Huth reference. Specifically, it would have been obvious to one skilled in the art at the time the invention was made to abrade the pile fabric to produce the claimed abrasion amounts, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233. Therefore, claims 1 and 2 are rejected over the cited Huth reference.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over EP 784 114 issued to Huth et al.

Although Huth does not explicitly teach the presence of a lubricant on the pile fibers, it is held that the use of lubricants are conventional in the art of textiles. Applicant is hereby given Official Notice that lubricants are conventionally added to fabrics as part of a finishing process in order to improve the hand of the fabric (i.e., softness and/or smoothness) and to reduce static build-up. Therefore, it would have been obvious to one of ordinary skill in the art to apply a lubricant to the pile fabric disclosed by Huth.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over EP 784 114 issued to Huth et al. in view of US 5,459,911 issued to Iwami and US 6,122,807 issued to Beltramini.

Huth clearly teaches applying abrasive action to a pile fabric. Although Huth does not explicitly teach applying said abrasive action in both a forward and reverse direction, it is held that the present claim limitations are obvious over the prior art. Specifically, Iwami and Beltramini teach abrading fabrics in both forward and reverse directions (Iwami, claim 2, col. 6, lines 46-49

and Beltramini, col. 2, lines 9-10). Thus, it would have been obvious to one skilled in the art to apply the abrasive action of Huth in both directions in order to produce a more uniform fabric. Therefore, claim 6 is rejected.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. US 4,259,393 issued to Marco.

b. US 5,050,280 issued to Hartkorn et al.

c. US 6,112,381 issued to Dischler et al.

d. US 6,233,795 issued to Dischler.

e. WO 97/14841 issued to Beltramini.

10. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Cheryl Juska whose telephone number is (703) 305-4472. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Terrel Morris, can be reached at (703) 308-2414. The official fax number for this TC 1700 is (703) 872-9310 and, for After Final communications, (703) 872-9311.

cj

December 13, 2001

CHERYL A. JUSKA
PRIMARY EXAMINER